

## CCRB INVESTIGATIVE RECOMMENDATION

|   |   |                           |   |   |                                 |
|---|---|---------------------------|---|---|---------------------------------|
| Investigator:<br>Christopher Anderson             | Team:<br>Squad #11  | CCRB Case #:<br>201808115 | <input checked="" type="checkbox"/> Force             | <input checked="" type="checkbox"/> Discourt. | <input type="checkbox"/> U.S.   |
|   |   |                           | <input type="checkbox"/> Abuse                        | <input type="checkbox"/> O.L.                 | <input type="checkbox"/> Injury |
| Incident Date(s)<br>Saturday, 09/29/2018 12:01 AM | Location of Incident:<br>Liberty Avenue and Pennsylvania Avenue | Precinct:<br>75           | 18 Mo. SOL<br>3/29/2020                               | EO SOL<br>11/13/2020                          |                                 |
| Date/Time CV Reported<br>Sun, 09/30/2018 8:55 PM  | CV Reported At:<br>Precinct                                     | How CV Reported:<br>Phone | Date/Time Received at CCRB<br>Mon, 10/01/2018 2:32 PM |   |                                 |

| Complainant/Victim | Type | Home Address |
|--------------------|------|--------------|
|                    |      |              |

| Subject Officer(s) | Shield | TaxID | Command |
|--------------------|--------|-------|---------|
| 1. Officers        |        |       | Unknown |
| 2. An officer      |        |       | Unknown |

| Witness Officer(s)         | Shield No | Tax No | Cmd Name |
|----------------------------|-----------|--------|----------|
| 1. POM Christophe Desimone | 06317     | 958495 | PSA 2    |
| 2. SGT Ricardo Lewis       | 02411     | 936948 | PSA 2    |
| 3. POM Terrance Durity     | 16005     | 960486 | 075 PCT  |
| 4. POM Anowar Hossain      | 02759     | 947086 | 075 PCT  |
| 5. POM Muhammed Ali        | 06039     | 948601 | 075 PCT  |
| 6. POM Zachary Chardavoyne | 11355     | 951605 | 075 PCT  |
| 7. INS John Chell          | 00000     | 905942 | 075 PCT  |
| 8. SSA Brian Clements      | 00398     | 929108 | SRG      |
| 9. DTS Kevin Beasley       | 5556      | 951534 | SRG      |
| 10. DTS Richard Cleri      | 440       | 944034 | SRG      |

| Officer(s)    | Allegation   | Investigator Recommendation |
|---------------|--|-----------------------------|
| A. An officer | Force: An officer struck § 87(2)(b) with a vehicle.      |                             |
| B. An officer | Force: An officer used physical force against § 87(2)(b) |                             |
| C. An officer | Force: An officer restricted § 87(2)(b)'s breathing.     |                             |
| D. Officers   | Force: Officers used physical force against § 87(2)(b)   |                             |
| E. Officers   | Discourtesy: Officers spoke discourteously to § 87(2)(b) |                             |

## Case Summary

On September 30, 2018, § 87(2)(b) who was 15 years old at the time of the incident, filed this complaint at the 75th Precinct stationhouse.

On September 29, 2018, at approximately 12:01 a.m., § 87(2)(b) encountered an unidentified officer, from whom he ran. As he did so, § 87(2)(b) was struck by a vehicle (**Allegation A -Force: Vehicle**, § 87(2)(g)). § 87(2)(b) stood, ran again, and then stopped. An unidentified officer conducted a forcible takedown against § 87(2)(b) (**Allegation B -Force: Physical force**, § 87(2)(g)). An officer pressed his knee against § 87(2)(b)'s body, causing him to feel unable to breathe (**Allegation C -Force: Restricted breathing**, § 87(2)(g)). While § 87(2)(b) was on the ground, officers punched and kicked him (**Allegation D -Force: Physical force**, § 87(2)(g)) and used profanity towards him (**Allegation E -Discourtesy: Word**, § 87(2)(g)). § 87(2)(b) was not arrested or issued any summonses as a result of this incident.

No video footage was obtained in this case.

## Findings and Recommendations

**Allegation (A) Force: An officer struck § 87(2)(b) with a vehicle.**

**Allegation (B) Force: An officer used physical force against § 87(2)(b)**

**Allegation (C) Force: An officer restricted § 87(2)(b)'s breathing.**

**Allegation (D) Force: Officers used physical force against § 87(2)(b)**

**Allegation (E) Discourtesy: Officers spoke discourteously to § 87(2)(b)**

§ 87(2)(b) stated to the CCRB (Board review 01) that he attended a sweet sixteen party at a location he could not recall. The party, attended by approximately 35 people, ended abruptly at approximately 12:00 a.m. When the party ended, § 87(2)(b) immediately exited the building where it had taken place, he walked towards a subway station. Officers were in the vicinity of the party, and § 87(2)(b) did not think that their presence was associated with the party's ending. § 87(2)(b) walked passed an altercation on the street that involved a "crowd" of approximately eight attendees of the party. § 87(2)(b) walked approximately two blocks and heard a commotion of "yelling" behind him at a distance he could not approximate. The group § 87(2)(b) had passed ran past him from the direction of this yelling. § 87(2)(b) did not know whether members of the group said anything, and he did not know why they ran.

After the group passed § 87(2)(b) he continued walking, and an unidentified uniformed officer "chased" him. The officer grabbed hold of § 87(2)(b)'s left arm. § 87(2)(b) backed away from the officer, breaking contact with him. The officer grabbed hold of his arm a second time. § 87(2)(b) became "scared" and ran from the officer. The officer ran behind § 87(2)(b) and entered an unmarked vehicle, which pursued § 87(2)(b) who ran approximately two blocks. As he ran, § 87(2)(b) did not hear anyone say anything.

A black unmarked vehicle reversed towards § 87(2)(b) who did not see the vehicle's occupants. A black unmarked vehicle struck § 87(2)(b) on his right side. § 87(2)(b) heard a "boom," fell backwards to the ground, striking his head on the ground, and felt pain on the right side of his head and back.

After being struck by the vehicle, § 87(2)(b) rose to his feet and saw four unidentified white male plainclothes officers who he could not further describe. § 87(2)(b) ran again, approximately one block, until he reached the corner of a roadway intersection, where he became

“tired” due to his asthma. § 87(2)(b) stood and faced two unidentified plainclothes officers who had been occupants of the black vehicle that pursued him from behind. One of these officers ran towards him from approximately six paces away. § 87(2)(b) stood still. Neither § 87(2)(b) nor this officer said anything to each other.

The officer “tackled” § 87(2)(b) in that he wrapped his arms around § 87(2)(b)'s lower torso and moved forward, bringing him to the ground. § 87(2)(b) landed on his back, and the officer turned his body onto his stomach. § 87(2)(b) lay, face-down, on the ground, where he saw the wheel of a vehicle and nothing else.

§ 87(2)(b) felt pressure that he thought to be an officer's knee on his neck and back. The pressure on his neck caused pain and a sensation of being unable to breathe. § 87(2)(b) repeatedly said that he was unable to breathe, and no officer said anything in response or altered their behavior. An officer called § 87(2)(b) a “bitch,” and an officer said, “Why the fuck you was running, eh?” § 87(2)(b) did not see what officer made these statements and did not know if it was the same officer. § 87(2)(b) did not move his body. § 87(2)(b) felt what he thought to be officers, the number of whom he could not specify, punching and kicking his stomach, and he could not describe what officers did so.

Another unmarked vehicle arrived, and officers exited it. § 87(2)(b) felt what he thought to be officers striking him in his face with their knees but could not describe what officers did so. These actions occurred “too fast,” and § 87(2)(b) could not attribute specific actions to specific officers. Officers pulled § 87(2)(b)'s hands behind his back and handcuffed him.

Officers escorted § 87(2)(b) into a marked NYPD vehicle and drove the vehicle to the corner of an intersection, where officers escorted § 87(2)(b) into another marked vehicle. Approximately twelve officers, including plainclothes officers and one wearing a white uniform shirt, were present. After approximately 15 to 20 minutes, officers escorted § 87(2)(b) into a black, unmarked vehicle by which he had not been struck and which was occupied by officers he thought had just arrived at the location. The officers, who were “confused” and “polite,” instructed him to place a call to his mother. The officers transported § 87(2)(b) to an unidentified stationhouse, into which they did not escort him, and removed his handcuffs. The officers then transported § 87(2)(b) to his home.

Officers from PSA2 were identified via the AIDED and Threat, Resistance, or Injury (TRI) Reports, the only NYPD documents known to be prepared by officers in this incident, prepared by PO Desimone. Officers from the 75<sup>th</sup> Precinct were identified as those assigned to Sector Patrol that were listed in the EVENT associated with this incident. Officers from SRG were identified via officer statements regarding their seeing unfamiliar plainclothes officers engaged in a foot pursuit and an AVL search for the incident time and location revealing an SRG vehicle as the only likely vehicle, with the exception of the PSA2 vehicle, in the area occupied by plainclothes officers.

PO Christopher Desimone (Board Review 02) and Sgt. Ricardo Lewis (Board Review 03) of Police Service Area (PSA) 2, Det. Kevin Beasley (Board Review 04) and Sgt. Brian Clements (Board Review 05) of Strategic Response Group (SRG), and PO Terrance Durity (Board Review 06), PO Anowar Hossain (Board Review 07), PO Muhammed Ali (Board Review 08), and PO Zachary Chardavoyne (Board Review 09) of the 75<sup>th</sup> Precinct were all interviewed at the CCRB in regards to this incident.

All officers interviewed acknowledged their familiarity with various aspects of this incident, including the party leading to a crowd of juveniles being outdoors, an officer request for

assistance via radio, and officer interactions with § 87(2)(b). Only PO Chardavoyne, PO Ali, PO Desimone, and Sgt. Lewis acknowledged directly interacting with § 87(2)(b) or seeing any officer do so. All four officers denied their vehicles' making contact with § 87(2)(b) or seeing any vehicle do so. PO Desimone was assigned to a black, unmarked vehicle, and PO Chardavoyne and PO Ali were assigned to a marked vehicle.

PO Chardavoyne stated that when he reached § 87(2)(b)'s location, § 87(2)(b) was on the ground, and PO Chardavoyne had not seen how he went to this position. Plainclothes officers, whose identities or commands PO Chardavoyne did not know, attempted to handcuff him and "struggled" to do so in a manner he could not describe beyond § 87(2)(b) not providing his hands to the officers. PO Chardavoyne assisted the officers by pressing one of § 87(2)(b)'s leg against the ground, and the officers handcuffed § 87(2)(b) approximately two seconds later. PO Chardavoyne took no other actions during this process, did not use force against or profanity towards § 87(2)(b) and did not see or hear any officer do so.

PO Ali, who was partnered with PO Chardavoyne, communicated on his radio after arriving at § 87(2)(b)'s location. He did not interact with § 87(2)(b) in any way, did not see any officer use force against him, and did not hear any officer use any profanity towards him.

PO Desimone stated that he saw plainclothes officers in a foot pursuit behind § 87(2)(b) and he moved his vehicle in front of both § 87(2)(b) and the officers and stopped it. After PO Desimone exited the vehicle and ran towards § 87(2)(b) and the officers, he saw that § 87(2)(b) was on the ground and that the plainclothes officers, whose identities or commands he did not know, attempted to handcuff him and "struggled" in doing so. PO Desimone, who did not assist these officers, and denied either using force against or profanity towards § 87(2)(b) during this process or seeing or hearing the other officers do so. The plainclothes officers were able to handcuff § 87(2)(b) in a manner PO Desimone could not describe.

The unidentified officers ran from the location, and PO Desimone lodged § 87(2)(b) in a nearby marked vehicle and left the location. PO Desimone and Sgt. Lewis were later called back to the location, where they were instructed to transport § 87(2)(b) to the PSA 2 stationhouse. The officers did so, and after arriving, they determined that they had no reason to keep § 87(2)(b) in custody and subsequently transported him to his home. The officers saw no injuries to § 87(2)(b) and he complained of no injuries but that officers had chased him.

After this incident, on the same day, § 87(2)(b) received treatment at § 87(2)(b) (Privileged Document 01) for facial and body abrasions he attributed to two unidentified officers. On the following day, § 87(2)(b) received treatment at the same location again and was treated for leg pain and contusions and diagnosed with an ankle sprain and a lower right leg contusion (within Privileged Document 01) he attributed to four unidentified officers.

As § 87(2)(b) was unable to describe any of the potential subject officers as anything beyond their being white males, it was determined that a photo array would not aid in officer identification.

§ 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

§ 87(2)(g)

### **Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 10).
- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 11).

### **Mediation, Civil and Criminal Histories**

- This case was not suitable for mediation.
- Prior Notice of Claim inquiries indicated that neither § 87(2)(b) nor § 87(2)(b) Williams has filed a Notice of Claim with the New York City Office of the Comptroller. On August 14, 2019, an additional inquiry was sent, and the results will be added to the case file upon receipt (Board Review 12).
- According to the NYPD's Booking and Arraignment Disposition System (BADS), § 87(2)(b) has no arrests in New York City in which he was not a juvenile (Board Review 13).

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Squad No.: \_\_\_\_\_

Investigator: \_\_\_\_\_

|           |                    |      |
|-----------|--------------------|------|
| Signature | Print Title & Name | Date |
|-----------|--------------------|------|

Squad Leader: \_\_\_\_\_

|           |                    |      |
|-----------|--------------------|------|
| Signature | Print Title & Name | Date |
|-----------|--------------------|------|

Reviewer: \_\_\_\_\_

|           |                    |      |
|-----------|--------------------|------|
| Signature | Print Title & Name | Date |
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